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OCT 31 2016

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EPA Region 10  
Office of the Regional Administrator

October 28, 2016

**Certified U.S. Mail — Return Receipt Requested**

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1200 Pennsylvania Ave., N.W.  
Mail Code 1101A  
Washington, D.C. 20460

Regional Administrator Dennis J. McLerran  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Mail Code RA-210  
Seattle, Washington 98101

Attorney General Loretta E. Lynch  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530-0001

Citizen Suit Coordinator  
Environment and Natural Resources Division  
Law & Policy Section  
P.O. Box 7415  
Ben Franklin Station  
Washington, D.C. 20044-7415

**Re: Northwest Environmental Defense Center v. Coast Seafoods Company**  
**U.S. District Court, W.D. Wash. Case No. 3:16-cv-05906**

Dear Honorable Civil Servants:

Enclosed is a copy of the filed, date-stamped complaint filed today, October 28, 2016, in the above-named Clean Water Act citizen suit. This notice is provided under section 505(c)(3) of the Clean Water Act, 33 U.S.C. § 1365(c)(3), and 40 C.F.R. § 135.4.

Sincerely,

Kampmeier & Knutsen, PLLC



By: \_\_\_\_\_  
Paul A. Kampmeier

Attorneys for Plaintiff Northwest Environmental Defense Center

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EPA Region 10

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13 *Attorneys for Plaintiff Northwest Environmental Defense Center*

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

NORTHWEST ENVIRONMENTAL DEFENSE  
CENTER, an Oregon non-profit corporation,

Plaintiff,

v.

COAST SEAFOODS COMPANY, a Washington  
corporation,

Defendant.

Case No.

COMPLAINT

**I. INTRODUCTION**

1. This action is a citizen suit brought under Section 505 of the Clean Water Act ("CWA" or "Act") as amended, 33 U.S.C. § 1365. Plaintiff Northwest Environmental Defense Center ("NEDC") seeks a declaratory judgment, injunctive relief, the imposition of civil penalties, and the award of costs, including attorneys' and expert witness fees, for Defendant Coast Seafoods' Company's repeated and ongoing violations of the terms and conditions of its National Pollutant Discharge Elimination System ("NPDES") permits, which authorize discharges

1 of pollutants, shellfish processing wastewater, shell washing wastewater, and stormwater associ-  
2 ated with industrial activity to waters of the United States from the Coast Seafoods Company fa-  
3 cility in South Bend, Washington.

## 4 II. JURISDICTION AND VENUE

5  
6 2. This Court has jurisdiction pursuant to 33 U.S.C. § 1365 (CWA citizen suit provi-  
7 sion) and 28 U.S.C. § 1331 (federal question). Coast Seafoods Company is in violation of an  
8 “effluent standard or limitation” as defined by Section 505 of the Act, 33 U.S.C. § 1365. The re-  
9 quested relief is proper under 28 U.S.C. §§ 2201 and 2202 and 33 U.S.C. § 1365.

10 3. NEDC has satisfied the jurisdictional requirements for bringing this suit. Under  
11 Section 505(b)(1)(A) of the Act, 33 U.S.C. § 1365(b)(1)(A), by certified letter dated and post-  
12 marked August 16, 2016, NEDC notified Coast Seafoods Company (“Defendant” or “Coast”)  
13 and its registered agent of Defendant’s alleged violations of the Act and of NEDC’s intent to sue  
14 for those violations (“Notice Letter”). NEDC also notified the Administrator of the Environmen-  
15 tal Protection Agency (“EPA”), the Administrator of EPA Region 10, and the Director of the  
16 Washington Department of Ecology of its intent to sue Defendant by mailing a copy of the No-  
17 tice Letter to those officials on August 16, 2016. A copy of the Notice Letter is attached to this  
18 complaint as Exhibit 1 and the allegations therein are hereby incorporated by reference.  
19

20  
21 4. More than sixty days have passed since NEDC mailed the Notice Letter and the  
22 violations complained of are continuing or reasonably likely to continue to occur. Neither the  
23 EPA nor the Washington Department of Ecology has commenced any action constituting diligent  
24 prosecution to redress these violations. Defendant is in violation of the Clean Water Act.

25 5. Venue is appropriate in this District under Section 505(c)(1) of the Act, 33 U.S.C.  
26 § 1365(c)(1), because the source of the violations complained of is located in this District, in Pa-  
27 cific County, Washington.  
28

6. A copy of this Complaint will be served on the Attorney General of the United States, the Administrator of the EPA, and the Administrator of EPA Region 10, as required by 33 U.S.C. § 1365(c)(3) and 40 C.F.R. § 135.4.

### III. PARTIES

7. Plaintiff Northwest Environmental Defense Center is a membership organization suing on behalf of itself and its members. NEDC is an independent non-profit corporation organized and existing under the laws of the State of Oregon. NEDC maintains its principal place of business in Multnomah County, Oregon. Since 1969, the staff, student volunteers, and members of NEDC have advocated for cleaner water and air and for the preservation of public lands and wildlife habitat across the Pacific Northwest. NEDC and its members are "citizens" as defined by Section 505(g) of the Act, 33 U.S.C. §1365(g).

8. The mission of NEDC is to protect and conserve the environment and natural resources of the Pacific Northwest. NEDC and its members work to conserve and protect water resources and aquatic species of the Pacific Northwest. NEDC and its members have a particular interest in, and derive aesthetic, recreational, and other benefits from, Washington's rivers, streams, lakes, and bays, including the Willapa River, Willapa Bay, and the Pacific Ocean, as well as the aquatic species that use and rely on those waters. NEDC's members use waters and adjacent lands downstream from Defendant's discharges for recreational and other activities, including boating, fishing, nature watching, hiking, and aesthetic enjoyment. NEDC's members use and enjoy the Willapa River, Willapa Bay, and/or the Pacific Ocean, as well as waters downstream of those streams, for fishing, recreation and other activities. Additionally, many members of NEDC live or work near other waters in Washington or otherwise have an interest in Washington waters and the aquatic species that inhabit those waters. NEDC and its members intend to continue all of these activities in the future.

1           9.       NEDC has representational standing to bring this lawsuit. Defendant has consist-  
2           ently violated the conditions of its NPDES permits and exceeded the permits' pollutant discharge  
3           benchmarks and limits. NEDC has at least one member who is injured by Defendant's dis-  
4           charges and Defendant's failure to comply with its NPDES permits. Recreational, economic,  
5           aesthetic, conservation, health, and/or other interests of NEDC and its members have been, are  
6           being, and will be adversely affected by Defendant's unauthorized discharges of pollutants,  
7           shellfish processing wastewater, shell washing wastewater, and/or industrial stormwater to the  
8           Willapa River, Willapa Bay, and the Pacific Ocean. NEDC's and its members' interests in the  
9           Willapa River, Willapa Bay, and the Pacific Ocean, and the waters to which those streams con-  
10          tribute, are diminished by their polluted state, by Defendant's illegal discharges of pollutants,  
11          process wastewater, and industrial stormwater, and by Defendant's other NPDES permit viola-  
12          tions. These injuries are fairly traceable to the conduct challenged herein. The relief sought in  
13          this lawsuit can redress the injuries to these interests.  
14

15           10.       NEDC has organizational standing to bring this action. NEDC has been actively  
16          engaged in a variety of educational and advocacy efforts to improve water quality, to address  
17          sources of water quality degradation, and to protect aquatic species in Washington and the Pa-  
18          cific Northwest. NEDC's organizational interests have been adversely affected by Defendant's  
19          NPDES permit violations. Defendant has failed to fulfill the monitoring, recordkeeping, report-  
20          ing, planning, and other obligations necessary for compliance with its NPDES permits and the  
21          CWA. As a result, NEDC is deprived of information that would further its efforts to serve its  
22          members by disseminating information and taking appropriate action. NEDC's efforts to edu-  
23          cate and advocate for greater environmental protection for the benefit of its members are thereby  
24          obstructed. These injuries are fairly traceable to Defendant's violations and are redressable by  
25          this Court.  
26  
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11. Defendant Coast Seafoods Company is a corporation organized and existing under the laws of the State of Washington. Defendant owns and operates a seafood processing facility at or near 1200 Robert Bush Drive, South Bend, Washington 98586-0166 (hereinafter "Facility"). Defendant's Facility discharges pollutants, shellfish processing wastewater, shell washing wastewater, and stormwater associated with industrial activity via point sources to the Willapa River, Willapa Bay, and the Pacific Ocean.

#### IV. LEGAL BACKGROUND

12. Congress enacted the Clean Water Act to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a).

13. As relevant here, Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits "the discharge of any pollutant by any person" unless such discharge is authorized by an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

14. The Act defines the term "discharge of a pollutant" to mean, in part, "any addition of any pollutant to navigable waters from any point source...." 33 U.S.C. § 1362(12).

15. As relevant here, the Act defines the term "point source" to mean, in part, "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. \* \* \*." 33 U.S.C. § 1362(14).

16. As relevant here, the Act defines the term "pollutant" to mean, in part, "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. \* \* \*." 33 U.S.C. § 1362(6).

1 17. Neither the Act nor its implementing regulations define the term “addition”; how-  
2 ever, one court found that “addition” means the introduction of a pollutant into navigable waters  
3 from any place outside the particular water body. Catskill Mountains Chapter of Trout Unlim-  
4 ited, Inc. v. City of New York, 273 F.3d 481, 491 (2nd Cir. 2001).

5  
6 18. The Act’s prohibition on discharging pollutants from point sources applies  
7 broadly. The Act defines the term “navigable waters” to mean “the waters of the United States,  
8 including the territorial seas.” 33 U.S.C. § 1362(7). And the Act defines the term “person” to  
9 mean “an individual, corporation, partnership, association, State, municipality, commission, or  
10 political subdivision of a State, or any interstate body.” 33 U.S.C. § 1362(5).

11 19. Section 402(a) of the Act authorizes EPA to issue NPDES permits authorizing  
12 discharges of pollutants. 33 U.S.C. §1342(a). EPA may delegate administration of the NPDES  
13 permit program to states with regulatory programs meeting applicable criteria. 33 U.S.C. §  
14 1342(b); 40 C.F.R. Part 123.

15  
16 20. Federal regulations require any person who discharges or proposes to discharge  
17 pollutants, process wastewater, or stormwater associated with industrial activity to waters of the  
18 United States to apply for an NPDES permit. 40 C.F.R. § 122.21(a).

19 21. Compliance with the terms and conditions of an NPDES permit is deemed com-  
20 pliance with the general discharge prohibition in Section 301(a). 33 U.S.C. § 1342(k). Any per-  
21 mit noncompliance is grounds for a citizen enforcement action. 33 U.S.C. §§ 1365(a)(1), (f)(6).

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V. FACTS

A. Coast Has NPDES Permits That Authorize, under Certain Conditions, Discharges of Pollutants, Shellfish Processing Wastewater, Shell Washing Wastewater, and Stormwater Associated with Industrial Activity from Coast's Facility.

22. The State of Washington has established a federally approved state NPDES program administered by the Washington Department of Ecology ("Ecology"). Ecology issues general and individual NPDES permits authorizing discharges of pollutants in the State of Washington. A facility seeking NPDES permit coverage for discharges of pollutants in Washington must apply to Ecology, which then grants NPDES permit coverage to the discharger if appropriate.

23. To authorize stormwater discharges associated with industrial activity, Ecology periodically issues an Industrial Stormwater General NPDES Permit. Ecology's Industrial Stormwater General NPDES Permits authorize covered facilities to discharge stormwater associated with industrial activity to waters of the United States subject to certain terms and conditions, including monitoring and sampling of discharges, reporting and recordkeeping requirements, and restrictions on the quality of stormwater discharges. To reduce and eliminate pollutant concentrations in stormwater discharges, Ecology's Industrial Stormwater General NPDES Permits require, among other things, that those covered by the permit develop and implement best management practices ("BMPs"), as well as a Stormwater Pollution Prevention Plan ("SWPPP"), and apply all known and reasonable methods of prevention, control, and treatment ("AKART") to stormwater discharges.

24. Ecology issued one iteration of the Industrial Stormwater General NPDES Permit on October 21, 2009, which it modified effective July 1, 2012 (hereinafter "2010 Stormwater Permit"). For facilities granted coverage under it, the 2010 Stormwater Permit conditionally au-

1 thorized stormwater discharges associated with industrial activity from January 1, 2010 to Janu-  
2 ary 1, 2015. The specific terms and conditions of the 2010 Stormwater Permit at issue in this  
3 case are described in detail below and in the Notice Letter. See Exhibit 1.

4         25. Ecology issued the most recent iteration of the Industrial Stormwater General  
5 NPDES Permit on December 3, 2014, and it became effective on January 2, 2015 (hereinafter  
6 "2015 Stormwater Permit"). For facilities granted coverage under it, the 2015 Stormwater Per-  
7 mit conditionally authorized stormwater discharges associated with industrial activity from Janu-  
8 ary 2, 2015 to December 31, 2019. The specific terms and conditions of the 2015 Stormwater  
9 Permit at issue in this case are described in detail below and in the Notice Letter. See Exhibit 1.

10         26. Coast discharges pollutants and stormwater associated with industrial activity via  
11 discernible, confined, and discrete conveyances to the Willapa River. Coast discharges pollu-  
12 tants, shellfish processing wastewater, and shell washing wastewater via discernible, confined,  
13 and discrete conveyances to the Willapa River.

14         27. Ecology authorized Coast to discharge stormwater associated with industrial ac-  
15 tivity from its Facility from January 1, 2010 to January 1, 2015 by issuing Coast coverage under  
16 the 2010 Stormwater Permit under NPDES permit number WAR002920. Additionally, Ecology  
17 authorized Coast to discharge stormwater associated with industrial activity from its Facility  
18 from January 2, 2015 to December 31, 2019 by issuing Coast coverage under the 2015 Storm-  
19 water Permit under permit number WAR002920.

20         28. Ecology also issued Coast an individual NPDES permit authorizing Coast to dis-  
21 charge shellfish processing wastewater and shell washing wastewater from the Facility from July  
22 1, 2011 to June 30, 2016 by granting Coast Seafoods coverage under NPDES Waste Discharge  
23 Permit number WA0002186 (hereinafter "Wastewater Permit").

1           29. Coast's NPDES permits prohibit any direct or indirect discharge from the Facility  
2 to waters of the state that is not in compliance with the terms and conditions of the applicable  
3 permit. Those permits also clearly state: "Any permit noncompliance constitutes a violation of  
4 ... the Clean Water Act ... and is grounds for enforcement action...."

5  
6       B. Coast Is Violating Its Wastewater Permit.

7           1. **Coast is violating its Wastewater Permit by discharging in excess of numeric  
8 effluent limitations.**

9           30. Condition S1.A of Coast's Wastewater Permit requires Coast to ensure that dis-  
10 charges of shellfish processing wastewater and shell washing wastewater from the Facility do not  
11 exceed the average monthly fecal coliform limit of 200 colonies/100 ml. Coast violated Condi-  
12 tion S1.A of its Wastewater Permit by discharging in excess of that effluent limit each and every  
13 month listed in the first table in Section I.A. of the Notice Letter. See Exhibit 1.

14           31. Condition S1.A of Coast's Wastewater Permit requires Coast to ensure that dis-  
15 charges of shellfish processing wastewater and shell washing wastewater from the Facility do not  
16 exceed the maximum daily fecal coliform limit of 400 colonies/100 ml. Coast violated Condi-  
17 tion S1.A of its Wastewater Permit by discharging in excess of that effluent limit on the days that  
18 Coast took the reported water quality samples during the months listed in the second table in  
19 Section I.A. of the Notice Letter. See Exhibit 1. As this is a daily limit, for each month that  
20 Coast reported a violation it is presumed the facility was in violation of the effluent limit for each  
21 day of that month.

22  
23           32. Condition S1.A of Coast's Wastewater Permit requires Coast to ensure that dis-  
24 charges of shellfish processing wastewater and shell washing wastewater from the Facility do not  
25 exceed the maximum daily flow limit of 175,000 gallons per day. Coast violated Condition S1.A  
26 of its Wastewater Permit by discharging in excess of that effluent limit on the days that Coast  
27  
28

1 took the reported water quality samples during the months listed in the third table in Section I.A.  
2 of the Notice Letter.

3 33. Coast violated the effluent limitations in its Wastewater Permit since NEDC sent  
4 the Notice Letter. Coast violated Condition S1.A of its Wastewater Permit by discharging shell-  
5 fish processing wastewater and/or shell washing wastewater with an average monthly fecal coli-  
6 form of 9,000 colonies/100 ml in August 2016. Coast violated Condition S1.A of its Wastewater  
7 Permit by discharging shellfish processing wastewater and/or shell washing wastewater with a  
8 daily fecal coliform of 9,000 colonies/100 ml on the date that Coast took water quality samples  
9 in August 2016.  
10

11 **2. Coast is violating its Wastewater Permit by failing to report violations and**  
12 **take corrective actions.**

13 34. Condition S3.E.1. of Coast's Wastewater Permit requires Coast to report to Ecol-  
14 ogy by telephone and within 24 hours of the event any Wastewater Permit noncompliance that  
15 may endanger health or the environment and any violation of a maximum daily discharge limita-  
16 tion for any of the pollutants listed in Condition S1.A of the Wastewater Permit. Additionally,  
17 Condition S3.E.1 of Coast's Wastewater Permit requires Coast to provide a detailed written re-  
18 port to Ecology within five days of becoming aware of any event that must be reported under  
19 Condition S3.E.1 of the Wastewater Permit. Coast violated these permit conditions by failing to  
20 report to Ecology in the time and manner required the violations of the Wastewater Permit's ef-  
21 fluent limits for Maximum Daily Fecal Coliform and Maximum Daily Flow that are described in  
22 Section I.A. of the Notice Letter. Additionally, Coast violated these permit conditions by failing  
23 to report to Ecology in the time and manner required the violations of the Wastewater Permit's  
24 effluent limits for Maximum Daily Fecal Coliform that are described in Paragraphs 33, above.  
25  
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1           35. For effluent limit violations that Coast is not required to report to Ecology within  
2 24 hours, Condition S3.F of Coast's Wastewater Permit requires Coast to submit the following  
3 information to Ecology when it submits its Discharge Monitoring Reports: (1) a description of  
4 the noncompliance and its cause; (2) the period of noncompliance, including exact dates and  
5 times; (3) the estimated time the permittee expects the noncompliance to continue if not yet cor-  
6 rected; (4) steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompli-  
7 ance; and (5) if the noncompliance involves an overflow, an estimate of the untreated overflow.  
8 Coast violated Condition S3.F of Coast's Wastewater Permit by failing to submit the required  
9 information to Ecology, on Coast's discharge monitoring reports, for each effluent limit violation  
10 described in the first table in Section I.A. of the Notice Letter. See Exhibit 1. Coast violated  
11 Condition S3.F of Coast's Wastewater Permit by failing to submit the required information to  
12 Ecology, on Coast's discharge monitoring reports, for the violation of the average monthly fecal  
13 coliform effluent limitation violation described in Paragraph 33, above. These violations include  
14 that Coast failed to describe on its discharge monitoring reports, for each violation of the average  
15 monthly effluent limit for fecal coliform described in the first table in Section I.A of the Notice  
16 Letter, the exact period of noncompliance, the estimated time period during which Coast ex-  
17 pected the noncompliance to continue, and the steps Coast planned to take to reduce, eliminate,  
18 or prevent recurrence of the noncompliance.

19           36. Condition S4.C of Coast's Wastewater Permit requires Coast to take all reasona-  
20 ble steps to minimize or prevent any discharge, sludge use, or disposal in violation of the  
21 Wastewater Permit that has a reasonable likelihood of adversely affecting human health or the  
22 environment. Coast violated this permit condition by failing to take all reasonable steps to mini-  
23 mize or prevent the effluent limit violations that are described in Section I.A of the Notice Letter  
24 and in Paragraph 33, above.

C. Coast is Violating its 2010 and 2015 Stormwater Permits.

37. Conditions S1.A of the 2010 and 2015 Stormwater Permits require that all discharges and activities by Coast be consistent with the terms and conditions of those permits. Coast is discharging pollutants and stormwater associated with industrial activity from its Facility to the Willapa River, Willapa Bay, and the Pacific Ocean in violation of the terms and conditions of the 2015 Stormwater Permit. Coast also violated similar terms and conditions in the 2010 Stormwater Permit. Coast's violations of the 2010 and 2015 Stormwater Permits are set forth in Section II of the Notice Letter and are hereby incorporated into this Complaint by reference. Each and every violation of the 2010 Stormwater Permit and 2015 Stormwater Permit (collectively the "Stormwater Permits") alleged in the Notice Letter or below constitutes a violation of Condition S1.A of the 2010 or 2015 Stormwater Permit. Coast's violations of the Stormwater Permits constitute violations of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

**1. Coast violated the Stormwater Permits by failing to implement the required corrective actions by the deadlines imposed.**

38. Conditions S5.A.3 and S5.B.2 of the Stormwater Permits require Coast to take the actions specified in Condition S.8 if a stormwater discharge from the Facility exceeds a benchmark listed in the Permits. Conditions S8.B of the Stormwater Permits require Coast to take specified actions, called "Level One Corrective Actions," each time the Facility's quarterly stormwater sample results exceed a benchmark value or are outside the benchmark range for pH. Conditions S8.C of the Stormwater Permits require Coast to take specified actions, called "Level Two Corrective Actions," each time the Facility's quarterly stormwater sample results exceed an applicable benchmark value or are outside the benchmark range for pH for any two quarters during a calendar year. Conditions S8.D of the Stormwater Permits require Coast to take specified actions, called "Level Three Corrective Actions," each time the Facility's quarterly stormwater



sample results exceed an applicable benchmark value or are outside the benchmark range for pH for any three quarters during a calendar year. Condition S8.A of the 2015 Stormwater Permit requires Coast to implement any corrective action required by or implemented under the 2010 Stormwater Permit.

39. Conditions S5.A and S5.B and Tables 2 and 3 of the Stormwater Permits establish the following benchmarks applicable to the Facility: turbidity, 25 NTU; pH, 5 – 9 SU; no visible oil sheen; total copper, 14 µg/L; total zinc, 117 µg/L; BOD, 30 mg/L; and Nitrate/Nitrite as Nitrogen, .68 mg/L.

40. The Stormwater Permits require Coast to monitor stormwater discharges in a manner that is representative of discharges from the Facility. The stormwater monitoring data described in the following table reflect the stormwater monitoring results Coast submitted to Ecology. Stormwater discharges from the Facility exceeded the benchmarks in the Stormwater Permits for the following pollutants, in the following amounts, during the following periods:

Coast Seafoods' Stormwater Monitoring Data Demonstrating Benchmark Exceedances						
Date	Turbidity (NTU)	Zinc (µg/L)	Copper (µg/L)	Oil Sheen (y/n)	BOD (mg/L)	Nitrate/Nitrite as Ni- trogen (mg/L)
1Q 2010						1.2
2Q 2010						0.73
3Q 2010	98	548	85	13	450	
4Q 2010				Yes		
1Q 2011				Yes	380	
2Q 2011						
3Q 2011						
4Q 2011				Yes		6.2
1Q 2012				Yes		1.2
2Q 2012				Yes		
3Q 2012	60	152	22.6		73	0.76
4Q 2012						
1Q 2013	170					
2Q 2013	35	215	43.5		32	
3Q 2013						
4Q 2013	100					
1Q 2014						
2Q 2014						0.9
3Q 2014			15			2.6

4Q 2014	420		79.5			
1Q 2015						
2Q 2015						
4Q 2015	93	131	14.1			

41. Coast violated Conditions S8.B, S5.A.3, and S5.B.2 of the Stormwater Permits, and Condition S8.A of the 2015 Stormwater Permit, by failing to complete all requirements of a Level One Corrective Action by the deadline imposed each time since January 1, 2010 that the Facility's quarterly stormwater sampling results exceeded a benchmark. Benchmark exceedances that triggered a Level One Corrective Action are set forth in the Table in Paragraph 40 of this Complaint and in Section II.A of the Notice Letter. The Level One Corrective Action requirements and Coast's violations thereof are described in Section II.A.1. of the Notice Letter and are incorporated herein by this reference.

42. Coast failed to fully complete all requirements of a Level One Corrective Action by the deadline imposed for each of the benchmark exceedances listed in the Table in Paragraph 40 of this Complaint and in Section II.A of the Notice Letter.

43. Coast violated Conditions S8.C, S5.A.3, and S5.B.2 of the Stormwater Permits, and Condition S8.A of the 2015 Stormwater Permit, by failing to fully complete all requirements of a Level Two Corrective Action by the deadline imposed each time since January 1, 2010 that the Facility's quarterly stormwater sampling results exceeded a benchmark or were outside the benchmark range for pH for any two quarters during a calendar year. Benchmark exceedances that triggered a Level Two Corrective Action are set forth in the Table in Paragraph 40 of this Complaint and in Section II.A of the Notice Letter. The Level Two Corrective Action requirements and Coast's violations thereof are described in Section II.A.2. of the Notice Letter and are incorporated herein by this reference.

1           44. Coast failed to fully complete all requirements of a Level Two Corrective Action  
2 by the deadline imposed for the exceedances of the Nitrate/Nitrite as Nitrogen benchmark that  
3 occurred in 2010.

4           45. Coast failed to fully complete all requirements of a Level Two Corrective Action  
5 by the deadline imposed for the exceedances of the Nitrate/Nitrite as Nitrogen benchmark that  
6 occurred in 2012.

7           46. Coast failed to fully complete all requirements of a Level Two Corrective Action  
8 by the deadline imposed for the exceedances of the Nitrate/Nitrite as Nitrogen benchmark that  
9 occurred in 2014.

10           47. Coast failed to fully complete all requirements of a Level Two Corrective Action  
11 by the deadline imposed for the exceedances of the oil and grease benchmark that occurred in  
12 2010.

13           48. Coast failed to fully complete all requirements of a Level Two Corrective Action  
14 by the deadline imposed for the exceedances of the oil and grease benchmark that occurred in  
15 2011.

16           49. Coast failed to fully complete all requirements of a Level Two Corrective Action  
17 by the deadline imposed for the exceedances of the oil and grease benchmark that occurred in  
18 2012.

19           50. Coast failed to fully complete all requirements of a Level Two Corrective Action  
20 by the deadline imposed for the exceedances of the copper benchmark that occurred in 2014.

21           51. Coast violated Conditions S8.D, S5.A.3, and S5.B.2 of the Stormwater Permits,  
22 and Condition S8.A of the 2015 Stormwater Permit, by failing to fully complete all requirements  
23 of a Level Three Corrective Action by the deadline imposed each time since January 1, 2010 that  
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1 the Facility's quarterly stormwater sampling results exceeded a benchmark. Benchmark exceed-  
2 ances that triggered a Level Three Corrective Action are set forth in the Table in Paragraph 40 of  
3 this Complaint and in Section II.A of the Notice Letter. The level three corrective action require-  
4 ments and Coast's violations thereof are described in Section II.A.3. of the Notice Letter and are  
5 incorporated herein by this reference.  
6

7 52. Coast failed to fully complete all requirements of a Level Three Corrective Action  
8 by the deadline imposed for the exceedances of the turbidity benchmark that occurred in 2013.  
9 After triggering the Level Three Corrective Action for turbidity in 2013, Coast failed to review  
10 its SWPPP to ensure it fully complied with Condition S3 of the 2010 Stormwater Permit. After  
11 triggering the Level Three Corrective Action for turbidity in 2013, Coast failed to make appro-  
12 priate revisions to the SWPPP to include additional treatment BMPs with the goal of achieving  
13 the turbidity benchmark in future stormwater discharges from the Facility. Coast failed to sub-  
14 mit to Ecology by May 15, 2014 a certified engineering report that included a Level Three Cor-  
15 rective Action to address turbidity. Coast failed to sign, certify, and fully implement by Septem-  
16 ber 30, 2014 a revised SWPPP that included a Level Three Corrective Action to address turbid-  
17 ity. Coast failed to summarize in its 2013 Annual Report the Level Three Corrective Actions  
18 Coast took or planned to take to address turbidity exceedances in stormwater discharges from the  
19 Facility.  
20

21  
22 **2. Coast Violated the Stormwater Permits by Failing to Apply AKART.**

23 53. Conditions S10.C of the Stormwater Permits require Coast to apply all known and  
24 reasonable methods of prevention, control and treatment ("AKART") to all stormwater dis-  
25 charges, including preparing and implementing an adequate SWPPP and BMPs. Coast violated  
26 these conditions. Coast failed to apply AKART to its stormwater discharges each and every day  
27 during the last five years. Coast failed to implement an adequate SWPPP each and every day  
28

1 during the last five years. Coast failed to implement adequate stormwater BMPs each and every  
2 day during the last five years.

3 **3. Coast Violated the Stormwater Permits by failing to manage stormwater to**  
4 **prevent the discharge of oil or oil containing products.**

5 54. Conditions S5.F of the Stormwater Permits require Coast to manage stormwater  
6 to prevent the discharge of synthetic, natural or processed oil or oil-containing products, as iden-  
7 tified by an oil sheen. Coast violated these permit conditions. Coast failed to manage storm-  
8 water to prevent the discharge of oil or oil containing products on or before the date or dates  
9 Coast sampled its stormwater during the third quarter of 2010. Coast failed to manage storm-  
10 water to prevent the discharge of oil or oil containing products on or before the date or dates  
11 Coast sampled its stormwater during the fourth quarter of 2010. Coast failed to manage storm-  
12 water to prevent the discharge of oil or oil containing products on or before the date or dates  
13 Coast sampled its stormwater during the first quarter of 2011. Coast failed to manage storm-  
14 water to prevent the discharge of oil or oil containing products on or before the date or dates  
15 Coast sampled its stormwater during the fourth quarter of 2011. Coast failed to manage storm-  
16 water to prevent the discharge of oil or oil containing products on or before the date or dates  
17 Coast sampled its stormwater during the first quarter of 2012. Coast failed to manage storm-  
18 water to prevent the discharge of oil or oil containing products on or before the date or dates  
19 Coast sampled its stormwater during the second quarter of 2012.

22 **4. Coast Violated the Stormwater Permits by failing to develop and implement**  
23 **a SWPPP that complies with all the requirements of the Permits.**

24 55. On information and belief, Coast has not developed and is not implementing a  
25 SWPPP that complies with all the requirements of the Permits. Conditions S3.A.1 of the Storm-  
26 water Permits require Coast to develop and implement a SWPPP as specified in the Stormwater  
27  
28



1 Permits. Conditions S3.A.2 of the Stormwater Permits require the SWPPP to specify BMPs nec-  
2 essary to provide AKART and ensure that discharges do not cause or contribute to violations of  
3 water quality standards. Coast has violated these requirements by failing to prepare and imple-  
4 ment a SWPPP that includes AKART BMPs and BMPs necessary to meet state water quality  
5 standards.  
6

7 56. Conditions S3.A of the Stormwater Permits require Coast to have and fully imple-  
8 ment a SWPPP that is consistent with permit requirements and to update the SWPPP as neces-  
9 sary to maintain compliance with permit conditions. Coast violated these requirements by failing  
10 to develop and implement a SWPPP that is consistent with permit requirements and by failing to  
11 update its SWPPP as necessary to maintain compliance with Permit conditions.  
12

13 57. Conditions S3.B.4 of the Stormwater Permits require Coast to include in its  
14 SWPPP a description of the BMPs that are necessary for the Facility to eliminate or reduce the  
15 potential to contaminate stormwater. Conditions S3.A.3 of the Stormwater Permits require that  
16 the SWPPP include BMPs consistent with approved stormwater technical manuals or document  
17 how stormwater BMPs included in the SWPPP are demonstratively equivalent to the practices  
18 contained in the approved stormwater technical manuals, including the proper selection, imple-  
19 mentation, and maintenance of all applicable and appropriate BMPs. Coast's SWPPP does not  
20 comply with these requirements because it does not adequately describe the BMPs that are nec-  
21 essary for the Facility to eliminate or reduce the potential to contaminate stormwater, does not  
22 include sufficient BMPs consistent with approved stormwater technical manuals, and does not  
23 include BMPs that are demonstratively equivalent to such BMPs with documentation of BMP  
24 adequacy.  
25

26 58. Coast's SWPPP does not comply with Conditions S3.B.4.b.i.7 of the Stormwater  
27 Permits because it does not include measures to identify and eliminate the discharge of process  
28



1 wastewater, domestic wastewater, noncontact cooling water, wash water, and other illicit dis-  
2 charges to stormwater sewers, or to surface waters and ground waters of the state.

3 59. Coast's SWPPP does not comply with Conditions S3.B.4.b.ii of the Stormwater  
4 Permits because it does not include required structural source control BMPs to minimize the ex-  
5 posure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and  
6 runoff.

7  
8 60. Coast's SWPPP does not comply with Conditions S3.B.4.b.iii of the Stormwater  
9 Permits because it does not include treatment BMPs as required to meet permit conditions and to  
10 eliminate or minimize oil and grease contamination in stormwater discharges.

11 61. Coast's SWPPP fails to comply with Conditions S3.B.4.b.v of the Stormwater Per-  
12 mits because it does not include BMPs to prevent the erosion of soils or other earthen materials  
13 and prevent off-site sedimentation and violations of water quality standards.

14  
15 **5. Coast Violated the Stormwater Permits by failing to monitoring its storm-**  
16 **water discharges and report violations as required.**

17 62. Coast has violated the monitoring, recording, and record keeping requirements of  
18 the Stormwater Permits. The monitoring requirements and Coast's violations thereof are de-  
19 scribed in Section II.E. of the Notice Letter. See Exhibit 1.

20 63. Conditions S4.A, S5.A, and S5.B of the Stormwater Permits require Coast to sam-  
21 ple stormwater in accordance with the Stormwater Permits, Tables 2 & 3 in the Permits, and  
22 Coast's SWPPP. Those Permit conditions require Coast to collect a sample of its stormwater  
23 discharge once during every calendar quarter and to sample the stormwater for the pollutants  
24 listed in Tables 2 & 3 of the Stormwater Permits. Coast violated these requirements.

25  
26 64. Coast failed to collect stormwater samples at discharge points during the second  
27 quarter of 2011. Coast failed to collect stormwater samples at discharge points during the third

1 quarter of 2011. Coast failed to collect stormwater samples at discharge points during the third  
 2 quarter of 2013. Coast failed to collect stormwater samples at discharge points during the first  
 3 quarter of 2015. Coast failed to collect stormwater samples at discharge points during second  
 4 quarter of 2015. Coast failed to collect stormwater samples at discharge points during the first  
 5 quarter of 2016.

6  
 7 65. Coast failed to sample its stormwater discharges for oil sheen during the first  
 8 quarter of 2010. Coast failed to sample its stormwater discharges for oil sheen during the second  
 9 quarter of 2010. Coast failed to sample its stormwater discharges for oil sheen during the fourth  
 10 quarter of 2012. Coast failed to sample its stormwater discharges for oil sheen during the first  
 11 quarter of 2014. Coast failed to sample its stormwater discharges for oil sheen during the third  
 12 quarter of 2014. Coast failed to sample its stormwater discharges for oil sheen during the fourth  
 13 quarter of 2014.

14  
 15 66. Coast failed to sample its stormwater discharges for Nitrite/Nitrate as Nitrogen,  
 16 BOD, and Phosphorous during the first, second, third, and fourth quarters of 2015 and during the  
 17 first and second quarters of 2016.

18 67. Conditions S9.A of the Stormwater Permits require Coast to use Discharge Moni-  
 19 toring Report forms provided or approved by Ecology to summarize, report, and submit storm-  
 20 water monitoring data to Ecology. Under these conditions, for each calendar quarter Coast must  
 21 complete and submit a DMR to Ecology not later than 45 days after the end of that monitoring  
 22 period.

23  
 24 68. Coast violated these permit conditions by failing to submit a DMR to Ecology  
 25 within the time prescribed for certain monitoring periods. Coast failed to submit a DMR to Ecol-  
 26 ogy for the second quarter of 2011 within the time prescribed. Coast failed to submit a DMR to  
 27 Ecology for the third quarter of 2011 within the time prescribed. Coast failed to submit a DMR  
 28

1 to Ecology for the third quarter of 2013 within the time prescribed. Coast failed to submit a  
2 DMR to Ecology for the first quarter of 2015 within the time prescribed. Coast failed to submit  
3 a DMR to Ecology for the second quarter of 2015 within the time prescribed. Coast failed to  
4 submit a DMR to Ecology for the first quarter of 2016 within the time prescribed.

5  
6 69. Coast also violated these permit conditions by failing to report stormwater dis-  
7 charge sample results. Coast failed to report stormwater discharge sample results to Ecology for  
8 oil sheen for the first quarter of 2010. Coast failed to report stormwater discharge sample results  
9 to Ecology for oil sheen for the second quarter of 2010. Coast failed to report stormwater dis-  
10 charge sample results to Ecology for oil sheen for the fourth quarter of 2012. Coast failed to re-  
11 port stormwater discharge sample results to Ecology for oil sheen for the first quarter of 2014.  
12 Coast failed to report stormwater discharge sample results to Ecology for oil sheen for the third  
13 quarter of 2014. Coast failed to report stormwater discharge sample results to Ecology for oil  
14 sheen for the fourth quarter of 2014. Coast failed to submit stormwater sample results to Ecol-  
15 ogy for Nitrite/Nitrate as Nitrogen, BOD, and Phosphorous for the first, second, third, and fourth  
16 quarters of 2015 and the first and second quarter of 2016.

17  
18 70. Conditions S7.A and S7.B of the Stormwater Permits require Coast to have quali-  
19 fied personnel conduct visual inspections of the Facility each month. Conditions S7.B of the  
20 Stormwater Permits require each inspection to include observations made at stormwater sam-  
21 pling locations and areas where stormwater associated with industrial activity is discharged, ob-  
22 servations for the presence of floating materials, visible oil sheen, discoloration, turbidity, odor,  
23 etc. in the stormwater discharges, observations for the presence of illicit discharges, a verifica-  
24 tion that the descriptions of potential pollutant sources required by the permit are accurate, a ver-  
25 ification that the site map in the SWPPP reflects current conditions, and an assessment of all  
26 BMPs that have been implemented (noting the effectiveness of the BMPs inspected, the locations  
27  
28

1 of BMPs that need maintenance, the reason maintenance is needed and a schedule for maintenance,  
2 nance, and locations where additional or different BMPs are needed). Additionally, Conditions  
3 S7.C of the Stormwater Permits require Coast to record the results of each inspection in an inspection  
4 report or checklist that is maintained on-site and that, among other things, documents  
5 the observations, verifications, and assessments required. On information and belief, Coast violated  
6 these requirements each and every month over the last five years by failing to conduct each  
7 of the required monthly visual monitoring and inspections, failing to prepare and maintain the  
8 required inspection reports or checklists, and failing to make the required certifications and summaries.  
9  
10

11 **6. Coast Violated the Stormwater Permits by failing to prepare and timely submit annual reports that included all the required information.**

12  
13 71. Conditions S9.B.1 of the Stormwater Permits require Coast to submit an accurate  
14 and complete annual report to Ecology no later than May 15 of each year. Conditions S9.B.2 &  
15 S9.B.3 of the Stormwater Permits require Coast to include specific information in annual reports,  
16 including documentation of the status of corrective actions taken to comply with Conditions  
17 S8.B – D of the Permits. These annual reporting requirements and Coast's violations thereof are  
18 described in Section II.F. of the Notice Letter.  
19

20 72. Coast failed to timely submit the required annual reports to Ecology for years  
21 2011, 2012, and 2014.

22 73. Coast failed to include all of the required information in certain annual reports it  
23 submitted to Ecology. The 2010 annual report does not describe any additional structural source  
24 control BMPs Coast implemented as part of a Level Two Corrective Action for Nitrate/Nitrite as  
25 Nitrogen or oil sheen or the status of those corrective actions and the expected date of completion.  
26  
27  
28



1        74.     The 2012 annual report does not acknowledge the benchmark exceedances that  
2 occurred in 2012 for Nitrate/Nitrite as Nitrogen and oil sheen. The 2012 annual report does not  
3 describe any additional structural source control BMPs implemented as part of Level Two Cor-  
4 rective Actions for Nitrate/Nitrite as Nitrogen and oil sheen. The 2012 annual report does not  
5 describe the status of the corrective actions being implemented for Nitrate/Nitrite as Nitrogen  
6 and oil sheen or the expected dates of completion of those corrective actions. The 2012 annual  
7 report does not describe measures Coast implemented in an effort to address the copper and zinc  
8 exceedances that occurred in the third quarter of 2012.  
9

10        75.     The 2013 annual report does not describe stormwater treatment measures to be  
11 implemented or otherwise address the Level Three Corrective Action for turbidity. The 2013 an-  
12 nual report does not address the Level One Corrective Actions for zinc, copper, and BOD or de-  
13 scribe the additional BMPs being implemented as part of the corrective actions for those param-  
14 eters.  
15

16        76.     The 2015 annual report does not describe additional BMPs being implemented as  
17 part of the Level One Corrective Actions triggered for turbidity, zinc, and copper.

18        **7.        Coast Violated the Stormwater Permits by failing to retain records as re-**  
19                **quired.**

20        77.     Conditions S9.C of the Stormwater Permits require Coast to retain, for a mini-  
21 mum of five years, a copy of the 2010 and 2015 Stormwater Permits, a copy of Coast's permit  
22 coverage letters, records of all sampling information, inspection reports including required docu-  
23 mentation, any other documentation of compliance with permit requirements, all equipment cali-  
24 bration records, all BMP maintenance records, all original recordings for continuous sampling  
25 instrumentation, copies of all laboratory results, copies of all required reports, and records of all  
26 data used to complete the application for the 2015 Permit. Upon information and belief, Coast  
27  
28

1 has violated these conditions every day during the last five years by failing to retain all records,  
2 information, reports, and other documentation as required by the Permits. These record retention  
3 requirements and Coast's violations thereof are described in Section II.G. of the Notice Letter.

4 See Exhibit 1.

5  
6 78. Defendant's unlawful discharges of pollutants degrade the environment and the  
7 water quality of the Willapa River, Willapa Bay, and the Pacific Ocean.

8 79. Defendant's unlawful discharges of pollutants were avoidable had Defendant  
9 been diligent in overseeing and controlling operations, maintenance, monitoring, and compliance  
10 with the law.

11 80. Defendant has benefited economically from its unlawful discharges of pollutants.

12  
13 **VI. CAUSE OF ACTION**

14 81. Plaintiff hereby incorporates the previous paragraphs by reference.

15 82. Defendant Coast Seafoods Company is a "person" within the meaning of Section  
16 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), and is subject to suit under the Act's citizen  
17 suit provision, 33 U.S.C. § 1365.

18 83. The violations of Defendant's NPDES permits described herein and in the Notice  
19 Letter constitute violations of an "effluent standard or limitation" as defined by section 505 of  
20 the CWA, 33 U.S.C. § 1365. Defendant Coast Seafoods Company has violated and is violating  
21 Sections 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), and an "effluent standard or limita-  
22 tion" as that term is defined by Section 505 of the Act, 33 U.S.C. § 1365, by adding pollutants,  
23 shellfish processing wastewater, shell washing wastewater, and industrial stormwater from point  
24 sources at its Facility to the Willapa River in violation of the terms and conditions of its NPDES  
25 permits. These violations are described in the Notice Letter and are hereby incorporated by ref-  
26 erence as if fully set forth herein. See Exhibit 1.  
27  
28



84. The NPDES permit violations committed by Defendant are continuing or are reasonably likely to re-occur. Any and all additional violations of Defendant's NPDES permits and the CWA which occur after those described in NEDC's Notice Letter but before a final decision in this action are continuing violations subject to this Complaint.

85. Without the imposition of appropriate civil penalties and the issuance of an injunction, Defendant is likely to continue to violate its NPDES permit and the CWA to the further injury of NEDC, its member(s) and others.

## VII. RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that the Court grant the following relief:

A. Declare that Defendant has violated and continues to be in violation of its Wastewater Permit and Stormwater Permits, as alleged herein;

B. Enjoin Defendant from operating its Facility in a manner that results in further violations of its NPDES permits or the CWA;

C. Order Defendant to implement immediately a SWPPP that complies with its 2015 Stormwater Permit;

D. Order Defendant to allow NEDC to participate in the development and implementation of Defendant's SWPPP;

E. Order Defendant to provide NEDC, for a period of time beginning on the date of this Court's Order granting NEDC relief and running for one year after Defendant achieves compliance with all of the conditions of its NPDES permit, with copies of all reports and other documents that Defendant submits to the EPA or to Ecology regarding Defendant's Wastewater Permit and 2015 Stormwater Permit or any other NPDES permit applicable to the Facility, at the time those documents are submitted to these agencies;

1 F. Order Defendant to take specific actions to remediate the environmental harm  
2 caused by its violations;

3 G. Grant such other preliminary and/or permanent relief as NEDC may from time to  
4 time request during the pendency of this case;

5 H. Order Defendant to pay civil penalties of \$37,500.00 per day of violation for each  
6 violation committed by Defendant pursuant to Sections 309(d) and 505(a) of the CWA, 33  
7 U.S.C. §§ 1319(d) and 1365(a), and 40 C.F.R. § 19;

9 I. Award NEDC its litigation expenses, including reasonable attorneys' and expert  
10 witness fees, as authorized by Section 505(d) of the CWA, 33 U.S.C. § 1365(d); and

11 J. Award such other relief as this Court deems appropriate.

12 RESPECTFULLY SUBMITTED this 28th day of October, 2016.

13  
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15 Paul A. Kampmeier, WSBA #31560  
16 Kampmeier & Knutsen PLLC  
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19 Tel: (206) 223-4088 x 4  
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21 s/Brian A. Knutsen  
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28 *Attorneys for Plaintiff Northwest Environmental Defense Center*

# Exhibit 1

KAMPMEIER & KNUTSEN PLLC  
ATTORNEYS AT LAW

PAUL A. KAMPMEIER  
Licensed in Washington  
206.223.4088 x 4  
paul@kampmeierknutsen.com

August 16, 2016

*Via Certified Mail - Return Receipt Requested*

Managing Agent  
Coast Seafoods Company  
P.O. Box 166  
South Bend, Washington 98586-0166

**Re: Notice of Intent to File Suit under the Clean Water Act.**

Dear Managing Agent:

This letter provides Coast Seafoods Company (hereinafter "Coast Seafoods") with sixty days' notice of the Northwest Environmental Defense Center's intent to file a citizen lawsuit against it under Section 505 of the Clean Water Act, 33 U.S.C. § 1365, for the Clean Water Act violations described in this letter. The Northwest Environmental Defense Center (hereinafter "NEDC") is a non-profit organization dedicated to protecting the natural environment of the Pacific Northwest. Kampmeier & Knutsen, PLLC represents NEDC in this matter and any response to this notice of intent to sue should be directed to us at the address below.

Congress enacted the Clean Water Act in 1948 to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a). In doing so, Congress declared a national goal of eliminating discharges of pollutants to navigable waters by 1985. To limit and control water pollution in Washington State, the Washington Department of Ecology ("Ecology") authorized Coast Seafoods to discharge shellfish processing wastewater and shell washing wastewater from its facility in South Bend, Washington, from July 1, 2011 to June 30, 2016 by granting Coast Seafoods coverage under National Pollutant Discharge Elimination System Waste Discharge Permit number WA0002186 (hereinafter "Wastewater Permit").

Additionally, Ecology authorized Coast Seafoods to discharge stormwater associated with industrial activity from its facility in South Bend, Washington, under Washington's Industrial 2010 Stormwater General Permit ("2010 Stormwater Permit"), which authorized stormwater discharges from January 1, 2010 to January 1, 2015, and as modified effective July 1, 2012, by issuing Coast Seafoods coverage under permit number WAR002920. Ecology later authorized Coast Seafoods to discharge stormwater associated with industrial activity from its facility in South Bend, Washington, from January

2, 2015 to December 31, 2019 by issuing Coast Seafoods coverage under Washington's Industrial Stormwater General Permit ("2015 Stormwater Permit") under permit number WAR002920.

Coast Seafoods' Wastewater and Stormwater NPDES permits authorize Coast Seafoods to discharge pollutants, wastewater, and stormwater to surface waters, provided all the discharges are in conformance with all the requirements, limitations, and conditions set forth in the permits. Any other direct or indirect discharge to waters of the state is prohibited. See Wastewater Permit Condition G17 (Duty to Comply) ("The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action..."); 2010 Stormwater Permit Condition G15; 2015 Stormwater Permit Condition G16.

Coast Seafoods has violated and is violating its Wastewater Permit and its 2010 and 2015 Stormwater Permits by discharging pollutants, shellfish processing wastewater, shell washing wastewater, and industrial stormwater from Coast Seafoods' processing facility at 1200 Robert Bush Drive, South Bend, Washington 98586-0166 (hereinafter the "facility") to the Willapa River, Willapa Bay, and the Pacific Ocean in violation of the terms and conditions of Coast Seafoods' NPDES permits. This letter provides you with sixty days' notice of NEDC's intent to sue Coast Seafoods for the NPDES permit violations described below and for any violations at any other properties that are owned or operated by Coast Seafoods and contiguous or adjacent to the facility.

**I. VIOLATIONS OF THE CLEAN WATER ACT AND COAST SEAFOODS' WASTEWATER PERMIT.**

**A. EFFLUENT LIMIT VIOLATIONS.**

Condition S1.A of Coast Seafoods' Wastewater Permit requires Coast Seafoods to ensure that discharges of shellfish processing wastewater and shell washing wastewater from the facility do not exceed the average monthly fecal coliform limit of 200 colonies/100 ml. Coast Seafoods violated Condition S1.A of its Wastewater Permit by discharging in excess of that effluent limit. These violations occurred during the following months, in the following amounts, and are ongoing:

<b>Date of Violation (month/year)</b>	<b>Average Monthly Fecal Coliform (# of colonies/100 ml)</b>
07/2011	870
08/2011	5,500
10/2011	3,800
03/2012	750
05/2012	360
09/2012	1,600
02/2013	390
03/2013	1,400
04/2013	5,600
05/2013	1,400
06/2013	910
07/2013	490



08/2013	250
09/2013	34,000
05/2014	24,000
07/2014	280,000
09/2014	440
11/2014	340
12/2014	22,000
03/2015	270
05/2015	22,000
06/2015	1,800
08/2015	82,000
09/2015	8,900
12/2015	460
01/2016	1,000
02/2016	270
03/2016	7,100
04/2016	1,500
05/2016	38,000

Condition S1.A of Coast Seafoods' Wastewater Permit requires Coast Seafoods to ensure that discharges of shellfish processing wastewater and shell washing wastewater from the facility do not exceed the maximum daily fecal coliform limit of 400 colonies/100 ml. Coast Seafoods violated Condition S1.A of its Wastewater Permit by discharging in excess of that effluent limit. These violations occurred during the following months, on the days that Coast Seafoods took the reported water quality samples, in the following amounts, and are ongoing:

<b>Date of Violation (month/year)</b>	<b>Maximum Daily Fecal Coliform (# of colonies/100 ml)</b>
07/2011	870
08/2011	5,500
10/2011	3,800
03/2012	750
09/2012	1,600
03/2013	1,400
04/2013	5,600
05/2013	1,400
06/2013	910
07/2013	490
09/2013	34,000
05/2014	24,000
07/2014	280,000
09/2014	440
12/2014	22,000
05/2015	22,000



06/2015	1,800
08/2015	82,000
09/2015	8,900
12/2015	460
01/2016	1,000
02/2016	270
03/2016	7,100
04/2016	1,500
05/2016	38,000

Condition S1.A of Coast Seafoods' Wastewater Permit requires Coast Seafoods to ensure that discharges of shellfish processing wastewater and shell washing wastewater from the facility do not exceed the maximum daily flow limit of 175,000 gallons per day. Coast Seafoods violated Condition S1.A of its Wastewater Permit by discharging in excess of that effluent limit. These violations occurred during the following months, on the days that Coast Seafoods took the reported water quality samples, in the following amounts, and are ongoing:

<b>Date of Violation (month/year)</b>	<b>Maximum Daily Flow (gallons per day)</b>
10/2014	191,574
11/2014	195,300
12/2014	185,760
12/2015	198,754

**B. FAILURE TO TAKE CORRECTIVE ACTIONS AND REPORT VIOLATIONS.**

Condition S3.E.1. of Coast Seafoods' Wastewater Permit requires Coast Seafoods to report to the Washington Department of Ecology by telephone and within 24 hours of the event any Wastewater Permit noncompliance that may endanger health or the environment and any violation of a maximum daily discharge limitation for any of the pollutants in Condition S1.A of the Wastewater Permit. Additionally, Condition S3.E.1 of Coast Seafoods' Wastewater Permit requires Coast Seafoods to provide a detailed written report to the Washington Department of Ecology within five days of becoming aware of any event that must be reported under Condition S3.E.1 of the Wastewater Permit. Coast Seafoods violated these permit conditions by failing to report to the Washington Department of Ecology in the time and manner required the violations of the Wastewater Permit's effluent limits for Maximum Daily Fecal Coliform and Maximum Daily Flow that are described in Section I.A of this notice letter. These violations are ongoing.

For each effluent limit violation not required to be reported within 24 hours, Condition S3.F of Coast Seafoods' Wastewater Permit requires Coast Seafoods to submit the following information to the Washington Department of Ecology when it submits its Discharge Monitoring Reports: (1) a description of the noncompliance and its cause; (2) the period of noncompliance, including exact dates and times; (3) the estimated time the permittee expects the noncompliance to continue if not yet corrected; (4) steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and (5) if the noncompliance involves an overflow an estimate of the untreated overflow. Coast

Seafoods violated this NPDES Permit condition by failing to submit the required information to the Washington Department of Ecology, on Coast Seafoods' discharge monitoring reports, for each and every effluent limit violation described in Section I.A of this notice of intent to sue. These violations include but are not limited to the fact that Coast Seafoods failed to describe on its discharge monitoring reports, for each violation of the average monthly effluent limit for fecal coliform described in Section I.A of this notice of intent to sue, the exact period of noncompliance, the estimated time period during which Coast Seafoods expected the noncompliance to continue, and the steps Coast Seafoods planned to take to reduce, eliminate, or prevent recurrence of the noncompliance. These violations are ongoing.

Condition S4.C of Coast Seafoods' Wastewater Permit requires Coast Seafoods to take all reasonable steps to minimize or prevent any discharge, sludge use, or disposal in violation of the Wastewater Permit that has a reasonable likelihood of adversely affecting human health or the environment. Coast Seafoods violated this permit condition by failing to take all reasonable steps to minimize or prevent the effluent limit violations that are described in Section I.A of this notice letter. These violations are ongoing.

## II. VIOLATIONS OF THE CLEAN WATER ACT AND COAST SEAFOODS' 2010 AND 2015 STORMWATER PERMITS.

Conditions S1.A of the 2010 and 2015 Stormwater Permits require that all discharges and activities by Coast Seafoods be consistent with the terms and conditions of the permits. Coast Seafoods has violated these conditions by discharging and acting inconsistently with the conditions of the 2010 and 2015 Stormwater Permits as described in this Notice of Intent to Sue.

### A. Corrective Action Violations.

The 2010 and 2015 Stormwater Permits require Coast Seafoods to take certain corrective actions if stormwater sample results from the facility exceed pollutant benchmarks listed in the permits. Conditions S5.A and S5.B and Tables 2 and 3 of the 2010 and 2015 Stormwater Permits establish the following applicable benchmarks: turbidity 25 NTU; pH 5 – 9 SU; no visible oil sheen; total copper 14 µg/L; total zinc 117 µg/L; BOD 30 mg/L; and Nitrate/Nitrite as Nitrogen .68 mg/L. Stormwater discharges from the facility exceeded these benchmarks for the following pollutants, in the following amounts, during the following reporting periods:

Coast Seafoods' Stormwater Monitoring Data Demonstrating Benchmark Exceedances						
Date	Turbidity (NTU)	Zinc (µg/L)	Copper (µg/L)	Oil Sheen (y/n)	BOD (mg/L)	Nitrate/Nitrite as Nitrogen (mg/L)
1Q 2010						1.2
2Q 2010						0.73
3Q 2010	98	548	85	13	450	
4Q 2010				Yes		
1Q 2011				Yes	380	
2Q 2011						
3Q 2011						

4Q 2011				Yes		6.2
1Q 2012				Yes		1.2
2Q 2012				Yes		
3Q 2012	60	152	22.6		73	0.76
4Q 2012						
1Q 2013	170					
2Q 2013	35	215	43.5		32	
3Q 2013						
4Q 2013	100					
1Q 2014						
2Q 2014						0.9
3Q 2014			15			2.6
4Q 2014	420		79.5			
1Q 2015						
2Q 2015						
4Q 2015	93	131	14.1			

*1. Violations of the Level One Requirements.*

Conditions S8.B of the 2010 and 2015 Stormwater Permits require Coast Seafoods to take specified actions, called "Level One Corrective Actions," each time quarterly stormwater sample results exceed a benchmark value or are outside the benchmark range for pH. Similarly, Conditions S5.A.3 and S5.B.2 of the 2010 and 2015 Stormwater Permits require Coast Seafoods to take the actions specified in Condition S8 if a stormwater discharge from the facility exceeds a benchmark. Additionally, Condition S8.A of the 2015 Permit requires Coast Seafoods to implement any Level One Corrective Action required by or implemented under the 2010 Stormwater Permit.

For a Level One Corrective action, Conditions S8.B.1.a of the 2010 and 2015 Stormwater Permits require Coast Seafoods to "[c]onduct an inspection to investigate the cause" of the benchmark exceedance. Additionally, for a Level One Corrective Action, Conditions S8.B of the 2010 and 2015 Stormwater Permits requires Coast Seafoods to: (1) review the SWPPP for the facility and ensure that it fully complies with Conditions S3 of the Permits and contains the correct best management practices (hereinafter "BMPs") from the applicable Stormwater Management Manual; (2) make appropriate revisions to the SWPPP to include additional operational source control BMPs with the goal of achieving the applicable benchmark values in future discharges and sign and certify the revised SWPPP in accordance with the Permits; and (3) summarize the Level One Corrective Action in the Annual Report required under Conditions S9.B of the Permits. Conditions S8.B of the 2010 and 2015 Stormwater Permits require Coast Seafoods to implement the revised SWPPP as soon as possible, and no later than the DMR due date for the quarter the benchmark was exceeded.

Coast Seafoods is violating and has violated Conditions S8.B of the 2010 and 2015 Stormwater Permits and the "level one corrective action" requirements described above by failing to conduct a Level One Corrective Action in accordance with permit conditions, including the required investigation, the required review, revision, and certification of the SWPPP, the required implementation of additional BMPs, and the required summarization in the annual report, each time in the past five years that

quarterly stormwater sampling results exceeded a benchmark as described in the table in Section II.A of this notice letter, above.

2. *Violations of the Level Two Corrective Action Requirements.*

Conditions S8.C of the 2010 and 2015 Stormwater Permits require Coast Seafoods to take specified actions, called "Level Two Corrective Actions," each time quarterly stormwater sample results exceed an applicable benchmark value or are outside the benchmark range for pH for any two quarters during a calendar year. Similarly, Conditions S5.A.3 and S5.B.2 of the 2010 and 2015 Stormwater Permits require Coast Seafoods to take the actions specified in Condition S8 if a stormwater discharge from the facility exceeds a benchmark. Condition S8.A of the 2015 Stormwater Permit requires Coast Seafoods to implement any Level Two Corrective Action required by the 2010 Permit.

As described in Condition S8.C of the 2010 and 2015 Stormwater Permits, a Level Two Corrective Action requires Coast Seafoods to: (1) review the stormwater pollution prevention plan (hereinafter "SWPPP") for the facility and ensure that it fully complies with Condition S3 of the Permits; (2) make appropriate revisions to the SWPPP to include additional structural source control BMPs with the goal of achieving the applicable benchmark value(s) in future discharges and sign and certify the revised SWPPP in accordance with Conditions S3 of the Permits; and (3) summarize the Level Two Corrective Action (planned or taken) in the Annual Report required under Condition S9.B of the Permits. Condition S8.C.4 of the Permits requires that Coast Seafoods implement the revised SWPPP according to Condition S3 of the Permits and the applicable stormwater management manual as soon as possible, and no later than August 31 of the following year.

Coast Seafoods is violating and has violated these permit requirements by failing to conduct Level Two Corrective Actions in accordance with permit conditions—including the required review, revision and certification of the SWPPP, the required implementation of additional BMPs to ensure that all points of discharge from the facility meet benchmarks (not just the sampled point of discharge), including additional structural source control BMPs in the SWPPP, and making the required summarization in the annual report—each time since 2010 that Coast Seafoods' quarterly stormwater sampling results exceeded a benchmark or were outside the benchmark range for pH for any two quarters during a calendar year, as indicated in the table in Section II.A of this notice letter, above. These violations include but are not limited to Coast Seafoods' failure to fulfill the Level Two Corrective Action obligations that were triggered by Nitrate/Nitrite as Nitrogen exceedances in 2010, 2012, and 2014; oil and grease exceedances in 2010, 2011, and 2012; and copper exceedances in 2014.

3. *Violations of the Level Three Corrective Action Requirements.*

Conditions S8.D of the 2010 and 2015 Stormwater Permits require Coast Seafoods to take specified actions, called "Level Three Corrective Actions," each time quarterly stormwater sample results exceed an applicable benchmark value or are outside the benchmark range for pH for any three quarters during a calendar year. Similarly, Conditions S5.A.3 and S5.B.2 of the 2010 and 2015 Stormwater Permits require Coast Seafoods to take the actions specified in Condition S8 if a stormwater discharge from the facility exceeds a benchmark. Condition S8.A of the 2015 Stormwater Permit requires that Coast Seafoods implement any Level Three Corrective Action required by the 2010 Stormwater Permit.



As described by Condition S8.D of the 2010 and 2015 Stormwater Permits, a Level Three Corrective Action requires Coast Seafoods to: (1) review the SWPPP for the facility and ensure that it fully complies with Conditions S3 of the Permits; (2) make appropriate revisions to the SWPPP to include additional treatment BMPs with the goal of achieving the applicable benchmark value(s) in future discharges and additional operational and/or structural source control BMPs if necessary for proper function and maintenance of treatment BMPs; and (3) summarize the Level Three Corrective Action (planned or taken) in the Annual Report required under Conditions S9.B of the Permits, including information on how monitoring, assessment, or evaluation information was (or will be) used to determine whether existing treatment BMPs will be modified/enhanced, or if new/additional treatment BMPs will be installed.

Condition S8.D.2.b of the 2010 Stormwater Permit requires that a licensed professional engineer, geologist, hydrogeologist, or certified professional in storm water quality must design and stamp the portion of the SWPPP that addresses stormwater treatment structures or processes. Condition S8.D.3 of the 2010 Stormwater Permit requires that, before installing BMPs that require the site-specific design or sizing of structures, equipment, or processes to collect, convey, treat, reclaim, or dispose of industrial stormwater, Coast Seafoods submit an engineering report, plans, and specifications, and an operations and maintenance manual to Ecology for review in accordance with chapter 173-204 of the Washington Administrative Code. The engineering report must be submitted no later than the May 15 prior to the Level Three Corrective Action Deadline. Condition S8.D.3 of the 2010 Stormwater Permit requires that the plans and specifications and the operations and maintenance manual must be submitted to Ecology at least 30 days before construction/installation.

Condition S8.D.2.b of the 2015 Stormwater Permit requires that a Qualified Industrial Stormwater Professional shall review the revised SWPPP, sign the SWPPP Certification Form, and certify that it is reasonably expected to meet the Industrial Stormwater General Permit benchmarks upon implementation. Additionally, Condition S8.D.3 of the 2015 Stormwater Permit requires that, before installing any BMPs that require the site-specific design or sizing of structures, equipment, or processes to collect, convey, treat, reclaim, or dispose of industrial stormwater, Coast Seafoods submit an engineering report, certified by a licensed professional engineer, to Ecology for review. The report must contain: (1) a brief summary of the treatment alternatives considered and why the proposed option was selected, including cost estimates of ongoing operation and maintenance and disposal of any spent media; (2) the basic design data, including characterization of stormwater influent and sizing calculations for the treatment units; (3) a description of the treatment process and operation, including a flow diagram; (4) the amount and kind of chemicals used in the treatment process, if any; (5) the expected results from the treatment process including the predicted stormwater discharge characteristics; and (6) a statement, expressing sound engineering justification—through the use of pilot plant data, results from similar installations, and/or scientific evidence—that the proposed treatment is reasonably expected to meet the permit benchmarks. The engineering report must be submitted no later than the May 15 prior to the Level Three Corrective Action Deadline. Condition S8.D.3.c of the 2015 Stormwater Permit requires that an operations and maintenance manual must be submitted to Ecology at least 30 days after construction/installation of the treatment BMPs is complete.

Conditions S8.D.5 of the 2010 and 2015 Stormwater Permits require Coast Seafoods to fully implement the revised SWPPP according to Conditions S3 of the Permits and the applicable stormwater management manual as soon as possible, and no later than September 30 of the following year.

Coast Seafoods has violated the requirements of the 2010 and 2015 Stormwater Permits described above by failing to conduct a Level Three Corrective Action in accordance with applicable permit conditions—including the required review, revision and certification of the SWPPP, including the requirement to have a specified professional design and stamp the portion of the SWPPP pertaining to treatment, the required implementation of additional BMPs, including additional treatment BMPs to ensure that all points of discharge from the facility meet benchmarks (not just the sampled point of discharge), the required submission of an engineering report, plans, specifications, and an operations and maintenance plan, and the required summarization in the annual report—each time since 2010 that Coast Seafoods' quarterly stormwater sampling results exceeded a benchmark or were outside the benchmark range for pH for any three quarters during a calendar year. As indicated in the table in Section II.A of this notice letter, above, these violations include but are not limited to Coast Seafoods' failure to fulfill these obligations for exceedances of the turbidity benchmark during calendar year 2013.

The benchmark excursions identified in the table in Section II.A of this notice letter, above, are based upon information currently available to NEDC from Ecology's publicly available records. NEDC provides notice of its intent to sue Coast Seafoods for failing to comply with all the Level One, Two, and Three Corrective Action requirements each and every time quarterly stormwater sample results exceeded an applicable benchmark values and triggered corrective action requirements since 2010.

**B. Failure to Apply AKART.**

Conditions S10.C of the 2010 and 2015 Stormwater Permits require Coast Seafoods to apply all known and reasonable methods of prevention, control and treatment ("AKART") to all discharges, including preparing and implementing an adequate SWPPP and best management practices. Coast Seafoods has violated and continues to violate these conditions by failing to apply AKART to its discharges by, among other things, failing to implement an adequate SWPPP and BMPs as evidenced by the elevated levels of pollutants in its stormwater discharges, as described in the table of benchmark exceedances in Section II.A of this notice letter, above, and as described in the alleged SWPPP violations in Section II.D of this notice letter. These violations have occurred each and every day during the last five years, they continue to occur every day, and they are ongoing.

**C. Prohibited Discharges.**

Conditions S5.F of the 2010 and 2015 Stormwater Permits require Coast Seafoods to manage stormwater to prevent the discharge of synthetic, natural or processed oil or oil-containing products, as identified by an oil sheen. Coast Seafoods violated this permit condition by failing to manage stormwater to prevent the discharge of oil or oil containing products on the dates Coast Seafoods sampled its stormwater during the third and fourth quarters of 2010, the first and fourth quarters of 2011, and the first and second quarters of 2012. These violations are ongoing.

D. Stormwater Pollution Prevention Plan Violations.

The extensive violations of the Permits documented in the publically-available records indicate that Coast Seafoods is not fully implementing a SWPPP that includes adequate BMPs and that otherwise includes all of the required SWPPP components. NEDC therefore provides notice, based upon information and belief, that Coast Seafoods has not developed and is not implementing a SWPPP that complies with all the requirements of the 2010 and 2015 Stormwater Permits, as described below. These violations occurred each and every day during the last five years, they continue to occur every day, and are ongoing.

Conditions S3.A.1 of the 2010 and 2015 Stormwater Permits require Coast Seafoods to develop and implement a SWPPP as specified in the permits. Conditions S3.A.2 of the 2010 and 2015 Stormwater Permits require the SWPPP to specify BMPs necessary to provide AKART and ensure that discharges do not cause or contribute to violations of water quality standards. On information and belief, Coast Seafoods has violated these requirements by failing to prepare and/or implement a SWPPP that includes AKART BMPs and BMPs necessary to meet state water quality standards.

Conditions S3.A of the 2010 and 2015 Stormwater Permits require Coast Seafoods to have and fully implement a SWPPP that is consistent with permit requirements and update the SWPPP as necessary to maintain compliance with permit conditions. On information and belief, Coast Seafoods has violated these requirements of the Permits because its SWPPP is not consistent with permit requirements, is not fully implemented, and has not been updated as necessary.

The SWPPP fails to satisfy the requirements of Conditions S3 of the 2010 and 2015 Stormwater Permits because it does not adequately describe BMPs. Conditions S3.B.4 of the 2010 and 2015 Stormwater Permits require the SWPPP to include a description of the BMPs that are necessary for the facility to eliminate or reduce the potential to contaminate stormwater. Conditions S3.A.3 of the 2010 and 2015 Stormwater Permits require that the SWPPP include BMPs consistent with approved stormwater technical manuals or document how stormwater BMPs included in the SWPPP are demonstratively equivalent to the practices contained in the approved stormwater technical manuals, including the proper selection, implementation, and maintenance of all applicable and appropriate BMPs. On information and belief, Coast Seafoods' SWPPP does not comply with these requirements because it does not adequately describe BMPs, does not include BMPs consistent with approved stormwater technical manuals, and does not include BMPs that are demonstratively equivalent to such BMPs with documentation of BMP adequacy.

Coast Seafoods' SWPPP fails to satisfy the requirements of Conditions S3.B.2 of the 2010 and 2015 Stormwater Permits because it fails to include a facility assessment. On information and belief, the SWPPP fails to include an adequate facility assessment because it does not describe the industrial activities conducted at the site, the general layout of the facility including buildings and storage of raw materials, the flow of goods and materials through the facility, the regular business hours, and the seasonal variations in business hours or in industrial activities.

Coast Seafoods' SWPPP fails to satisfy the requirements of Conditions S3.B.1 of the 2010 and 2015 Stormwater Permits because it does not include a site map that identifies significant features, the stormwater drainage and discharge structures, the stormwater drainage areas for each stormwater



discharge point off-site, a unique identifying number for each discharge point, each sampling location with a unique identifying number, paved areas and buildings, areas of pollutant contact associated with specific industrial activities, conditionally approved non-stormwater discharges, surface water locations, areas of existing and potential soil erosion, vehicle maintenance areas, and lands and waters adjacent to the site that may be helpful in identifying discharge points or drainage routes.

Coast Seafoods' SWPPP fails to comply with Conditions S3.B.2.b of the 2010 and 2015 Stormwater Permits because it does not include an inventory of industrial activities that identifies all areas associated with industrial activities that have been or may potentially be sources of pollutants. The SWPPP does not identify all areas associated with loading and unloading of dry bulk materials or liquids, outdoor storage of materials or products, outdoor manufacturing and processing, on-site dust or particulate generating processes, on-site waste treatment, storage, or disposal, vehicle and equipment fueling, maintenance and/or cleaning, roofs or other surfaces exposed to air emissions from a manufacturing building or a process area, and roofs or other surfaces composed of materials that may be mobilized by stormwater as required by these permit conditions.

Coast Seafoods' SWPPP does not comply with Conditions S3.B.2.c of the 2010 and 2015 Stormwater Permits because it does not include an adequate inventory of materials. The SWPPP does not include an inventory of materials that lists the types of materials handled at the site that potentially may be exposed to precipitation or runoff and that could result in stormwater pollution, a short narrative for each of the materials describing the potential for the pollutants to be present in stormwater discharge that is updated when data becomes available to verify the presence or absence of the pollutants, a narrative description of any potential sources of pollutants from past activities, materials and spills that were previously handled, treated, stored, or disposed of in a manner to allow ongoing exposure to stormwater as required. The SWPPP does not include the method and location of on-site storage or disposal of such materials and a list of significant spills and significant leaks of toxic or hazardous pollutants as these permit conditions require.

Coast Seafoods SWPPP does not comply with Conditions S3.B.3 of the 2010 and 2015 Stormwater Permits because it does not identify specific individuals by name or title whose responsibilities include SWPPP development, implementation, maintenance, and modification.

Coast Seafoods' SWPPP does not comply with Conditions S3.B.4.b.i of the 2010 and 2015 Stormwater Permits because it does not include adequate required operational source control BMPs in the following categories: good housekeeping (including definition of ongoing maintenance and cleanup of areas that may contribute pollutants to stormwater discharges, and a schedule/frequency for each housekeeping task); preventive maintenance (including BMPs to inspect and maintain stormwater drainage, source controls, treatment systems, and plant equipment and systems, and the schedule/frequency for each task); spill prevention and emergency cleanup plan (including BMPs to prevent spills that can contaminate stormwater, for material handling procedures, storage requirements, cleanup equipment and procedures, and spill logs); employee training (including an overview of what is in the SWPPP, how employees make a difference in complying with the SWPPP, spill response procedures, good housekeeping, maintenance requirements, material management practices, how training will be conducted, the frequency/schedule of training, and a log of the dates on which specific employees received training); inspections and recordkeeping (including documentation of procedures to ensure compliance with permit requirements for inspections and recordkeeping, including identification

of personnel who conduct inspections, provision of a tracking or follow-up procedure to ensure that a report is prepared and appropriate action taken in response to visual monitoring, definition of how Coast Seafoods will comply with signature and record retention requirements, and certification of compliance with the SWPPP and Permit).

Coast Seafoods' SWPPP does not comply with Conditions S3.B.4.b.i.7 of the 2010 and 2015 Stormwater Permits because it does not include measures to identify and eliminate the discharge of process wastewater, domestic wastewater, noncontact cooling water, wash water, and other illicit discharges to stormwater sewers, or to surface waters and ground waters of the state.

Coast Seafoods' SWPPP does not comply with Conditions S3.B.4.b.ii of the 2010 and 2015 Stormwater Permits because it does not include required structural source control BMPs to minimize the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff. Coast Seafoods' SWPPP does not comply with Conditions S3.B.4.b.iii of the 2010 and 2015 Stormwater Permits because it does not include treatment BMPs as required.

Coast Seafoods' SWPPP fails to comply with Conditions S3.B.4.b.v of the 2010 and 2015 Stormwater Permits because it does not include BMPs to prevent the erosion of soils or other earthen materials and prevent off-site sedimentation and violations of water quality standards.

Coast Seafoods' SWPPP fails to satisfy the requirements of Conditions S3.B.5 of the 2010 and 2015 Stormwater Permits because it fails to include an adequate stormwater sampling plan as required. The SWPPP does not include a sampling plan that identifies points of discharge to surface waters, storm sewers, or discrete ground water infiltration locations, documents why each discharge point is not sampled, identifies each sampling point by its unique identifying number, identifies staff responsible for conducting stormwater sampling, specifies procedures for sampling collection and handling, specifies procedures for sending samples to the a laboratory, identifies parameters for analysis, holding times and preservatives, laboratory quantization levels, and analytical methods, and that specifies the procedure for submitting the results to Ecology.

E. Monitoring and Reporting Violations.

1. *Failure to Collect Quarterly Samples.*

Conditions S4.A, S5.A, and S5.B of the 2010 and 2015 Stormwater Permits require Coast Seafoods to sample stormwater in accordance with its Stormwater Permits, Tables 2 & 3 in the Permits, and Coast Seafoods' SWPPP. Those Conditions require Coast Seafoods to collect a sample of its stormwater discharge once during every calendar quarter and to sample the stormwater for the pollutants listed in Tables 2 & 3 of the Permits. Coast Seafoods violated these requirements by failing to collect stormwater samples at discharge points during required monitoring periods, including but not limited to the second quarter of 2011, the third quarter of 2011, the third quarter of 2013, the first and second quarters of 2015, and the first quarter of 2016. Coast Seafoods violated these requirements by failing to sample its stormwater discharges for oil sheen during the first and second quarters of 2010, the fourth quarter of 2012, and the first, third, and fourth quarters of 2014. And Coast Seafoods violated these requirements by failing to sample its stormwater discharges for Nitrite/Nitrate as Nitrogen, BOD, and

Phosphorous during the first, second, third, and fourth quarters of 2015 and during the first and second quarter of 2016. These violations are ongoing.

2. *Failure to Timely Submit Discharge Monitoring Reports and Data.*

Conditions S9.A of the 2010 and 2015 Stormwater Permits require Coast Seafoods to use DMR forms provided or approved by Ecology to summarize, report, and submit monitoring data to Ecology. Under these conditions, for each monitoring period (calendar quarter) Coast Seafoods must complete and submit a DMR to Ecology not later than 45 days after the end of that monitoring period. Coast Seafoods violated these conditions by failing to submit a DMR within the time prescribed for certain monitoring periods, including but not limited to the second quarter of 2011, the third quarter of 2011, the third quarter of 2013, the first and second quarters of 2015, and the first quarter of 2016. Coast Seafoods violated these requirements by failing to report stormwater discharge sample results for oil sheen for the first and second quarters of 2010, the fourth quarter of 2012, and the first, third, and fourth quarters of 2014. And Coast Seafoods violated these requirements by failing to submit stormwater sample results to Ecology, on the form provided, for Nitrite/Nitrate as Nitrogen, BOD, and Phosphorous during the first, second, third, and fourth quarters of 2015 and during the first and second quarter of 2016. These violations are ongoing.

3. *Failure to Comply with Visual Monitoring Requirements.*

Conditions S7.A and S7.B of the 2010 and 2015 Stormwater Permits require Coast Seafoods to have qualified personnel conduct visual inspections of the facility each month. Per Condition S7.B of the 2010 and 2015 Stormwater Permits, each inspection must include observations made at stormwater sampling locations and areas where stormwater associated with industrial activity is discharged, observations for the presence of floating materials, visible oil sheen, discoloration, turbidity, odor, etc. in the stormwater discharges, observations for the presence of illicit discharges, a verification that the descriptions of potential pollutant sources required by the permit are accurate, a verification that the site map in the SWPPP reflects current conditions, and an assessment of all BMPs that have been implemented (noting the effectiveness of the BMPs inspected, the locations of BMPs that need maintenance, the reason maintenance is needed and a schedule for maintenance, and locations where additional or different BMPs are needed).

Conditions S7.C of the 2010 and 2015 Stormwater Permits require Coast Seafoods to record the results of each inspection in an inspection report or checklist that is maintained on-site and that documents the observations, verifications, and assessments required. The report/checklist must include the time and date of the inspection, the locations inspected, a statement that, in the judgment of the person conducting the inspection and the responsible corporate officer, the facility is either in compliance or out of compliance with the SWPPP and the 2010 Stormwater Permit or 2015 Stormwater Permit (whichever is applicable), a summary report and schedule of implementation of the remedial actions Coast Seafoods plans to take if the site inspection indicates the facility is out of compliance, the name, title, signature and certification of the person conducting the facility inspection, and a certification and signature of the responsible corporate officer or a duly authorized representative.

Coast Seafoods has violated and is violating these requirements by failing to conduct each of the required monthly visual monitoring and inspections, failing to prepare and maintain the required

inspection reports or checklists, and failing to make the required certifications and summaries. On information and belief, one or more violations of Conditions S7 of the 2010 and 2015 Stormwater Permits occurred each and every month over the last five years. These violations are ongoing.

F. Violations of the Annual Reporting Requirements.

Conditions S9.B.1 of the 2010 and 2015 Stormwater Permits require Coast Seafoods to submit an accurate and complete annual report to Ecology no later than May 15 of each year. Coast Seafoods violated these permit requirements by failing to timely submit the required annual reports to Ecology for 2011, 2012, and 2014. These violations are ongoing.

Conditions S9.B.2 & S9.B.3 of the 2010 and 2015 Stormwater Permits require Coast Seafoods to include specific information in annual reports, including documentation of the corrective actions taken to comply with Conditions S8.B – D of the Permits. If a corrective action is not yet completed at the time of submission of the annual report, Coast Seafoods must describe the status of any outstanding corrective action. Each annual report must: (1) identify the conditions triggering the need for corrective action review; (2) describe the problem and identify the of dates when the problem was discovered; (3) summarize any Level 1, 2, or 3 Corrective Actions completed during the previous calendar year and include the dates those corrective actions were completed; and (4) describe the status of any Level 2 or 3 corrective actions triggered during the previous calendar year, and identify the date Coast Seafoods expects to complete those corrective actions.

Coast Seafoods has violated and is violating these permit requirements by failing to include all of the required information in each annual report Coast Seafoods submitted in the last 5 years. These violations include but are not limited to the following and are ongoing:

- The 2010 annual report does not describe any additional structural source control BMPs implemented as part of Level Two Corrective Actions triggered for Nitrate/Nitrite as Nitrogen and oil sheen, as required by Condition S9.B.3.c of the 2010 Stormwater Permit, or the status of those corrective actions and the expected date of completion, as required by Condition S9.B.3.d of the 2010 Stormwater Permit.
- The 2012 annual report does not acknowledge the benchmark exceedances that occurred for Nitrate/Nitrite as Nitrogen and oil sheen, as required by Condition S9.B.3.a of the 2010 Stormwater Permit, does not describe any additional structural source control BMPs implemented as part of Level Two Corrective Actions triggered for Nitrate/Nitrite as Nitrogen and oil sheen, as required by Condition S9.B.3.c of the 2010 Stormwater Permit, and does not describe the status of those corrective actions and the expected dates of completion, as required by Condition S9.B.3.d of the 2010 Stormwater Permit.
- The 2012 annual report also does not describe measures implemented in an effort to address the copper and zinc exceedances that occurred in the third quarter of 2012, as required by Conditions S9.B.2 and S9.B.3 of the 2010 Stormwater Permit.



- The 2013 annual report does not describe stormwater treatment measures to be implemented or otherwise address the Level Three Corrective Action triggered for turbidity, as required by Conditions S9.B.2 and S9.B.3 of the 2010 Stormwater Permit.
- The 2013 annual report does not address the Level One Corrective Actions triggered for zinc, copper, and BOD, or describe the additional BMPs being implemented as part of the corrective actions for those parameters, as required by Conditions S9.B.2 and S9.B.3 of the 2010 Stormwater Permit.
- The 2015 annual report does not describe additional BMPs being implemented as part of the Level One Corrective Actions triggered for turbidity, zinc, and copper, as required by Conditions S9.B.2 and S9.B.3 of the 2010 Stormwater Permit.

G. Violations of Record Retention Requirements.

Conditions S9.C of the Permits require Coast Seafoods to retain, for a minimum of five years, a copy of the 2010 and 2015 Stormwater Permits, a copy of Coast Seafoods' permit coverage letters, records of all sampling information, inspection reports including required documentation, any other documentation of compliance with permit requirements, all equipment calibration records, all BMP maintenance records, all original recordings for continuous sampling instrumentation, copies of all laboratory results, copies of all required reports, and records of all data used to complete the application for the 2015 Permit. Upon information and belief, Coast Seafoods has violated and is violating these conditions by failing to retain all required records, information, reports, and other documentation during the last five years. These violations are ongoing.

**III. REQUEST FOR SWPPP.**

With this letter NEDC is also requesting a copy of Coast Seafoods' complete and current stormwater pollution prevention plan complete with all incorporated plans, monitoring reports, checklists, and training and inspection logs. As required by Condition S9.F of Coast Seafoods' 2015 Stormwater Permit, please provide NEDC with access to, or a copy of, Coast Seafoods complete SWPPP within fourteen days of receipt of this notice letter. Failure to comply with this request will constitute a violation of the Clean Water Act and Coast Seafoods' 2015 Stormwater Permit, which violation is subject to this notice of intent to sue and will be included in any lawsuit against Coast Seafoods for the Clean Water Act violations alleged herein.

**IV. PARTY GIVING NOTICE.**

The full name, address, and telephone number of the party giving notice is:

Northwest Environmental Defense Center  
10015 S.W. Terwilliger Boulevard  
Portland, Oregon 97219  
(503) 768-6673

**V. ATTORNEYS REPRESENTING NEDC.**

The attorneys representing NEDC in this matter are:

Paul Kampmeier  
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615 Second Avenue, Suite 360  
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Telephone: (206) 223-4088 extension 4

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Kampmeier & Knutsen PLLC  
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Portland, Oregon 97214  
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**VI. CONCLUSION.**

The NPDES Permit violations described and alleged in this notice of intent to sue are ongoing and violate the Clean Water Act. At the conclusion of the 60-day notice period, NEDC intends to file a lawsuit against Coast Seafoods Company under the citizen suit provisions of Section 505 of the Clean Water Act, 33 U.S.C. § 1365. Each of the above-described violations subjects the violator to a penalty of up to \$37,500 per day. In addition to civil penalties, NEDC will seek injunctive relief to prevent further violations and such other relief as is permitted by law, including recovery of NEDC's costs, attorneys' fees, and expert witness fees. See 33 U.S.C. §§ 1365(a) and (d). Although the above-described violations reflect the information currently available to NEDC, NEDC intends to sue for all violations, including those yet to be uncovered and those committed after the date of this notice letter.

During the 60-day notice period NEDC will be willing to discuss effective remedies for the violations described in this letter. If you wish to pursue settlement discussions in the absence of litigation, we suggest that you initiate discussions within 10 days of receiving this notice so the parties can meet and discuss effective remedies for the violations alleged herein. NEDC does not intend to delay the filing of a complaint if discussions are ongoing when the notice period ends.

Very truly yours,

Kampmeier & Knutsen, PLLC

By: 

Paul A. Kampmeier  
Brian A. Knutsen



cc: Gina McCarthy, Administrator, U.S. Environmental Protection Agency  
Dennis McLerran, Region 10 Administrator, U.S. Environmental Protection Agency  
Maia Bellon, Director, Washington Department of Ecology  
National Registered Agents, Inc., Registered Agent for Coast Seafoods Company, 505 Union  
Avenue SE, Suite 120, Olympia, Washington 98501

### **CERTIFICATE OF SERVICE**

I, Paul Kampmeier, declare under penalty of perjury of the laws of the United States that I am counsel for Northwest Environmental Defense Center and that on August 16, 2016, I caused copies of the foregoing Notice of Intent to Sue Under the Clean Water Act to be served on the following by depositing it with the U.S. Postal Service, postage prepaid, via certified mail, return receipt requested:

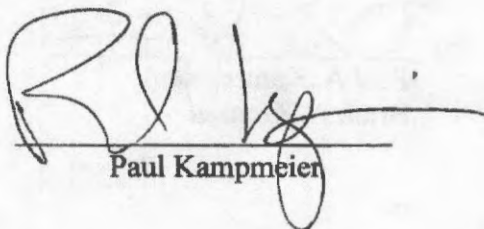
Managing Agent  
Coast Seafoods Company  
P.O. Box 166  
South Bend, Washington 98586-0166

Administrator Regina A. McCarthy  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W., Mail Code 1101A  
Washington, D.C. 20460

Regional Administrator Dennis J. McLerran  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Mail Code RA-210  
Seattle, Washington 98101

Director Maia Bellon  
Washington Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

National Registered Agents, Inc.  
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505 Union Avenue SE, Suite 120  
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Paul Kampmeier